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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,618	01/27/2004	Thomas L. Toth	GEMS8081.198	1362
27061 7590 06/01/2007 ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC (GEMS) 136 S WISCONSIN ST PORT WASHINGTON, WI 53074			EXAMINER SONG, HOON K	
			ART UNIT 2882	PAPER NUMBER
			MAIL DATE 06/01/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/765,618	Applicant(s) TOTH ET AL.	
	Examiner Hoon Song	Art Unit 2882	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-11 and 13-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-11 and 13-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 1 is objected to because of the following informalities:

In claim 1 at line 13, between "direction" and "to determine", insert --and--.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19-23, 25-27, 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Earnst et al. (US 2005/0085710A1).

Regarding claim 19, Earnst teaches a method of imaging comprising the steps of:

positioning a subject in an imaging device having detector array for acquiring image data (figure 1);

collecting positioning information of the table from both at least one sensor (150) disposed in proximity to the imaging device and from the detector array (21);

determining a relative position of the subject within the imaging device from at least the position information (paragraph [0025]).

However Earnst fails to teach collecting positioning information of subject.

Cosman teaches a method of collecting position information of a subject.

It would have been obvious to one of ordinary skill in the art at the time of the invention to adapt the method of Earnst with the collecting method as taught by Cosman, since the subject information would provide better subject position information.

Regarding claim 20, Earnst teaches the step of determining a table elevation relative to isocenter (paragraph [0037]).

Regarding claim 21, Earnst teaches the step of determining a centering error of the subject in at least one direction (paragraph [0046]).

Regarding claim 22, Earnst teaches the step of repositioning the subject to reduce the centering error (paragraph [0037]).

Regarding claim 23, Earnst teaches the step of adjusting table elevation to reduce the centering error (paragraph [0037]).

Regarding claim 25, Earnst teaches the step of acquiring medical diagnostic data of the subject (figure 1-2).

Regarding claim 26, Earnst teaches the step of detecting a top surface position of the subject from the positioning information.

Regarding claim 27, Earnst teaches the step of determining from the top surface position an elevational offset of the subject.

Regarding claim 30, Earnst teaches the positioning information includes vector (coordinate) position information.

Regarding claim 31, Earnst teaches the step of adjusting an attenuation characteristic of an attenuation filter according to the determined position of the subject.

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Regarding claim 32, Earnst teaches the step of determining at least one of a PA, a PM and an OR from the position information.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Earnst in view of Scheibengraber (US 4538289).

Regarding claim 24, Earnst fails to teach the at least one sensor is disposed in a bore of the imaging device.

Scheibengraber teaches a CT system having an alignment device that disposed in a bore (figure 1).

It would have been obvious to one of ordinary skill in the art at the time of the invention to locate the feedback sensor of Earnst at the bore of the CT system as taught by Scheibengraber, since the location of the sensor would provide an integrated system that would reduce the overall size of the CT system.

Claims 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Earnst in view of Li et al. (US 6269501B1).

Regarding claims 28-29, Earnst fails to teach the step of performing a scout scan.

Li teaches a CT method having a step of performing a scout scan (column 2 line 57).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the CT of Earnst with the scout scan as taught by Li, since the scout scan would reduce overall patient dose (column 2 line 36).

Double Patenting

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The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 4-11 and 13-40 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-26 of U.S. Patent No. 7,068,751. Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant claims are anticipated by the claims of the patent.

Allowable Subject Matter

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claims 1 and 4-8, the prior art fails to teach a computer programmed to associate subject-position feedback with data derived from at least one scout scan and at least one sensor to provide subject feedback in a z direction and to determine patient contour as claimed in independent claim 1.

Regarding claims 9-11, 13-18 and 38, the prior art fails to teach at least one processor to receive feedback regarding a subject position from at least one sensor and from at least one scout scan of an image device and determine a centering error from the feedback as claimed in independent claim 9 and 38.

Regarding claims 33-37, the prior art fails to teach at least one sensor to provide subject-position feedback and a computer programmed to perform two orthogonal scout image and associate the subject position feedback with data derived from the two orthogonal scout scans as claimed in independent claim 33.

Regarding claim 39, the prior art fails to teach a processor to determine at least one of a PA, PM and a OR from a subject contour feedback and data derived from a scout scan as claimed in claim 39.

Regarding claim 40, the prior art fails to teach a method of collecting positioning information of a subject from at least one sensor and from a scout scan and determining a relative position of the subject with the imaging device from at least the position information as claimed in independent claim 40.

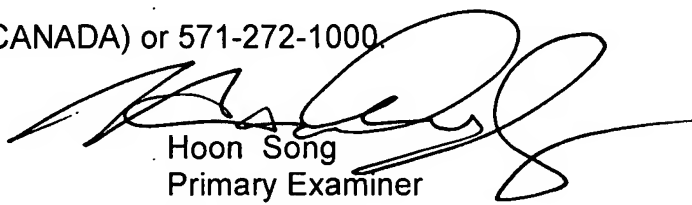
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoon Song whose telephone number is (571) 272-2494. The examiner can normally be reached on 9:30 AM - 7 PM, Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Glick can be reached on (571) 272 - 2490. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Hoon Song
Primary Examiner
Art Unit 2882

5/28/2007